

# Introduction Materials: House Economic Matters Committee

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**Jeffrey A. Kelly**  
*Executive Director*  
Alcohol and Tobacco  
Commission



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# Alcohol and Tobacco Commission (ATC): Commission and Agency

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**The ATC was created in 2019 by passage of HB1052.**

- Originally set to begin operations in 2020, the agency's inception was delayed due to the COVID-19 pandemic. In 2020, SB911 amended commencement until Jan. of 2021.
- Agency began nominal operations in mid-FY21. Beginning of FY22, Field Enforcement and Licensing Divisions migrated over from Comptroller to ATC
- The ATC consists of two silos: (1) A set of 5 Commissioners appointed by the Governor for staggered two-year terms; and (2) Executive Director, appointed by the Governor, who runs the day-to-day operations of the agency

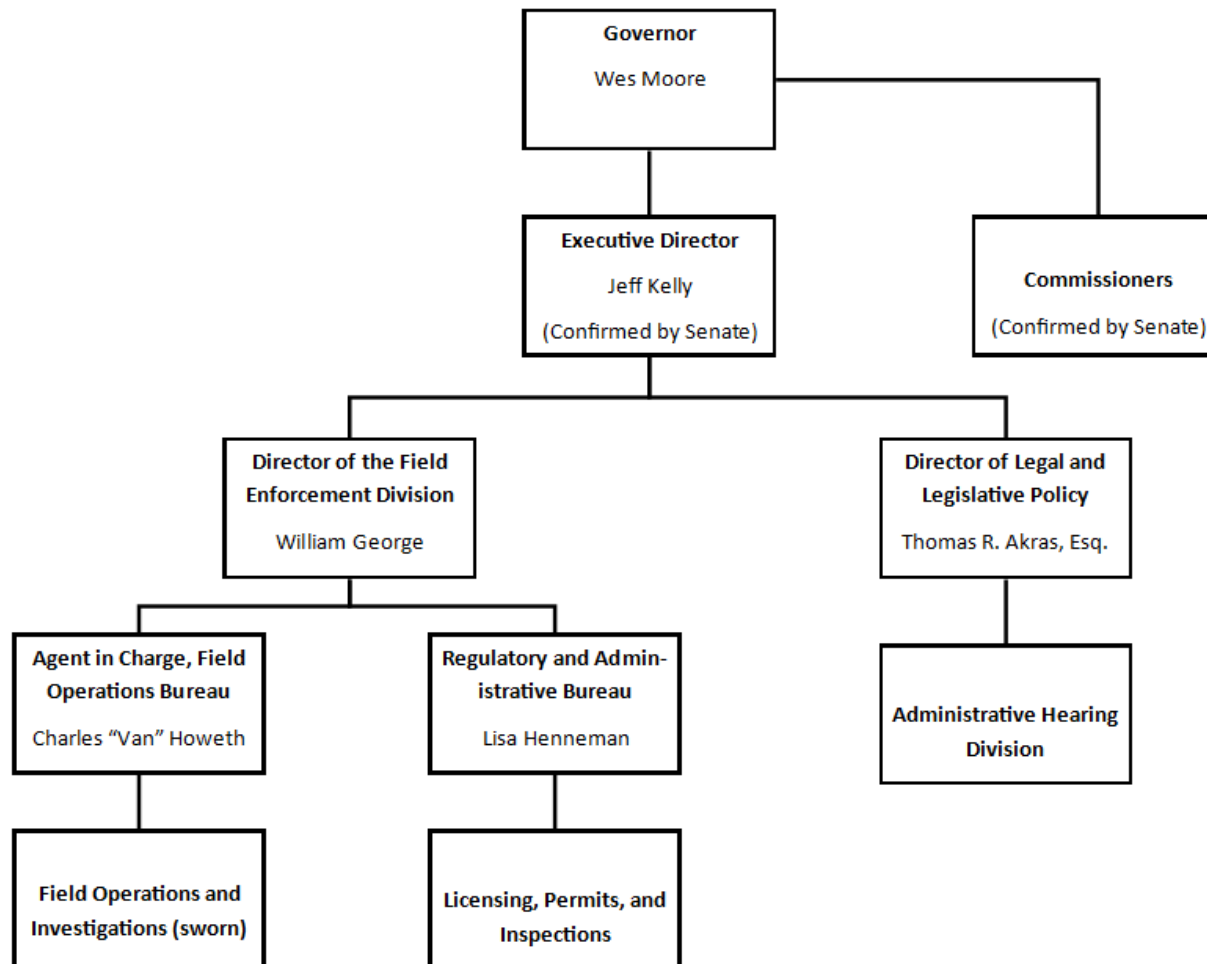
## ATC Mission:

**To oversee, regulate, and enforce alcohol and tobacco laws**

- *Regulatory* – Receive, review, process, and issue applications for licensure and permits (manufacturers, wholesalers, retail)
- *Enforcement* – Conduct inspections, investigations, and administrative hearings to ensure compliance
- *Commission* – Conducts studies, reviews best practices, and issues reports to MGA and public

# Alcohol and Tobacco Commission Organizational Chart (As of 1/19/23)

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# Office of the Executive Director

- Jeff Kelly, Executive Director
- The Office of the Executive Director of the ATC has broad based authority to regulate alcoholic beverages and tobacco in Maryland
  - Under the law the Executive Director may:
    - Adopt and discharge regulations – Alc. Bev. Art. 1-311
      - Includes tobacco Bus. Reg. Art. 16, 16.5, 16.7, 16.9
    - Oversee the FED – Alc. Bev. Art. 1-312
      - Consists of Administrative Services Bureau and Field Operations Bureau
    - Delegate authority to issue licenses and permits
      - Alc. Bev. Art. 1-314
    - Hold hearings, delegate power to hold hearings, and impose penalties (may issue summonses for witnesses)
      - Alc. Bev. Art. 1-315 and 1-318
    - Inspect, investigate, and use broad search powers to ensure compliance by licensees
      - Alc. Bev. Art. 1-319 through 1-320
    - Enter into MOUs with other state, local, federal agencies to ensure Alcohol Beverages Article, Business Regulations Article, Tax General, and Commercial Law Articles are enforced
      - Commission has this authority specific to the Comptroller

# Field Enforcement Division: Administrative Services and Regulatory Bureau (ASR)

- Bill George, Director of Field Enforcement Division
  - Lisa Henneman, Assistant Director of ASR
- The ASR consists of personnel that perform the following duties:
  - Reviews, processes, and approves applications for permits and licensure
  - Issues new and renewal licenses and permits
  - Provides support to the Commission – oversees meetings, records and publishes minutes, and conducts studies
  - Conducts inspections of licensed locations to ensure compliance with Alcoholic Beverage Trade Practices
  - Registers new alcoholic beverages and tobacco products in the State of Maryland
  - Maintains website, runs reports, conducts statistical analysis, and disseminates information to stakeholders
  - Maintains beer franchise and credit control lists
  - Assists the Comptroller's Office with responsibilities associated with MOU

# Field Enforcement Division: Field Operations Bureau (FOB)

- Bill George, Director of Field Enforcement Division
  - Charles “Van” Howeth, Agent-In-Charge
- The FOB consists of sworn law enforcement officers that perform the following duties:
  - Conducts routine inspections of licensed and/or permitted locations
  - Conducts overt and covert investigations of licensed and/or permitted locations
  - Executes search warrants on licensed and/or permitted locations
  - Seizes, processes, stores, and, when applicable, destroys evidence and/or contraband material
  - Issues criminal and civil citations, and when appropriate conducts arrests of individuals charged with violation of the Alcoholic Beverages Article, Tax General Article, Business Regulations Article, or Commercial Law Article
  - Refer cases to Federal and State prosecutors for criminal charges, when appropriate
  - Upon request, receipt of anonymous information, or by referral from a stakeholder or local licensing board – conducts special enforcement initiatives to ensure compliance
  - Assists the Comptroller’s Office with responsibilities associated with MOU
  - Collaborate with Federal, State, and/or local agencies to enforce the Alcoholic Beverages Article, Tax General Article, Business Regulations Article, or Commercial Law Article

# Legal and Legislative Division (LLD)

- Legal and Legislative Division
  - Thomas R. Akras, Esq., Director
- The LLD performs the following functions:
  - Reviews and monitors legislative bills related to alcohol and tobacco, generally, and ATC duties, specifically
  - Serves as an advocate and liaison to elected officials and local liquor boards on behalf of the ATC
  - Develops responses, fiscal notes, and analyses of ATC related bills
  - Recommends and develops new ATC relevant legislation
  - Provides guidance related to alcohol and tobacco laws and regulations to local liquor boards, health departments, industry members and others
  - Prepares interpretations of law and regulations, addressing questions or concerns from interested parties
  - Drafts administrative/advisory/training bulletins and develops legal policies and procedures
  - Performs legal research and analysis, prepares legal memoranda, letters, and legal documents for the Executive Director of the ATC and Director of the Field Enforcement Division, and other personnel
  - Receives and processes any PIA requests
  - Oversees Administrative Hearing Process for ATC: receives hearing referrals, provides notice, conducts hearings, provides written recommendations



# Maryland's Alcohol Distribution System: *the three tier system*



# Pre-Prohibition

Highly competitive market

To draw customers in, offer:

- Free meals
- Illegal gambling
- Prostitution
- Drugs

# The result?

- Over consumption leading to:
  - Breakdown of public order and loss of decorum
  - Increased crime
  - General harm to individuals
  - Disintegration of families and communities



# Enter... Prohibition!

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- The 18<sup>th</sup> Amendment
- The Volstead Act
- Individual States' legislation
- One state did not participate...  
guess which one



# Maryland's Response

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- No complimentary legislation
- Our State's motto?
  - THE FREE STATE
- And so...

## **THE EVENING SUN**

BALTIMORE, APRIL 4, 1923

### **The Maryland Free State**

In 1928, Georgia Congressman William D. Upshaw, a firm supporter of Prohibition, denounced Maryland as a traitor to the Union for refusing to pass a State enforcement act. Mr. Owens thereupon wrote a mock-serious editorial entitled "The Maryland Free State," arguing that Maryland should secede from the Union rather than prohibit the sale of liquor. The irony in the editorial was subtle, and Mr. Owens decided not to print it. He popularized the nickname, however, in later editorials.



## Prohibition Ends

- The 21<sup>st</sup> Amendment
- Each state was given the authority to control alcohol as it saw fit.
- Report: Toward Liquor Control
- Maryland employed a licensing system containing three tiers with a bright line separating each tier.
  - Manufacturers, who sell to distributors
  - Distributors, who sell to retailers
  - Retailers, who sell to consumers

# Maryland's Regulatory Structure

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The Alcohol and Tobacco Commission, through the Office of the Executive Director, licenses and regulates the manufacturers/suppliers and distributors

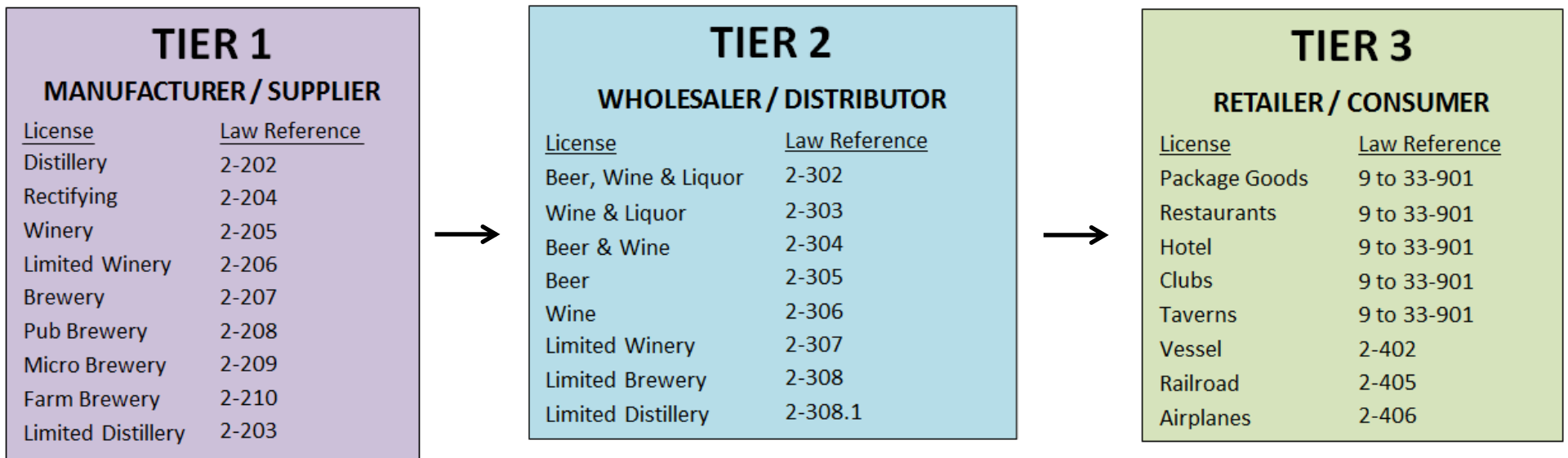
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Each of 25 local jurisdictions licenses and regulates its local retailers

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The Alcohol and Tobacco Commission and the local jurisdictions share enforcement responsibility for retailers

# Maryland's Alcoholic Beverage Distribution System



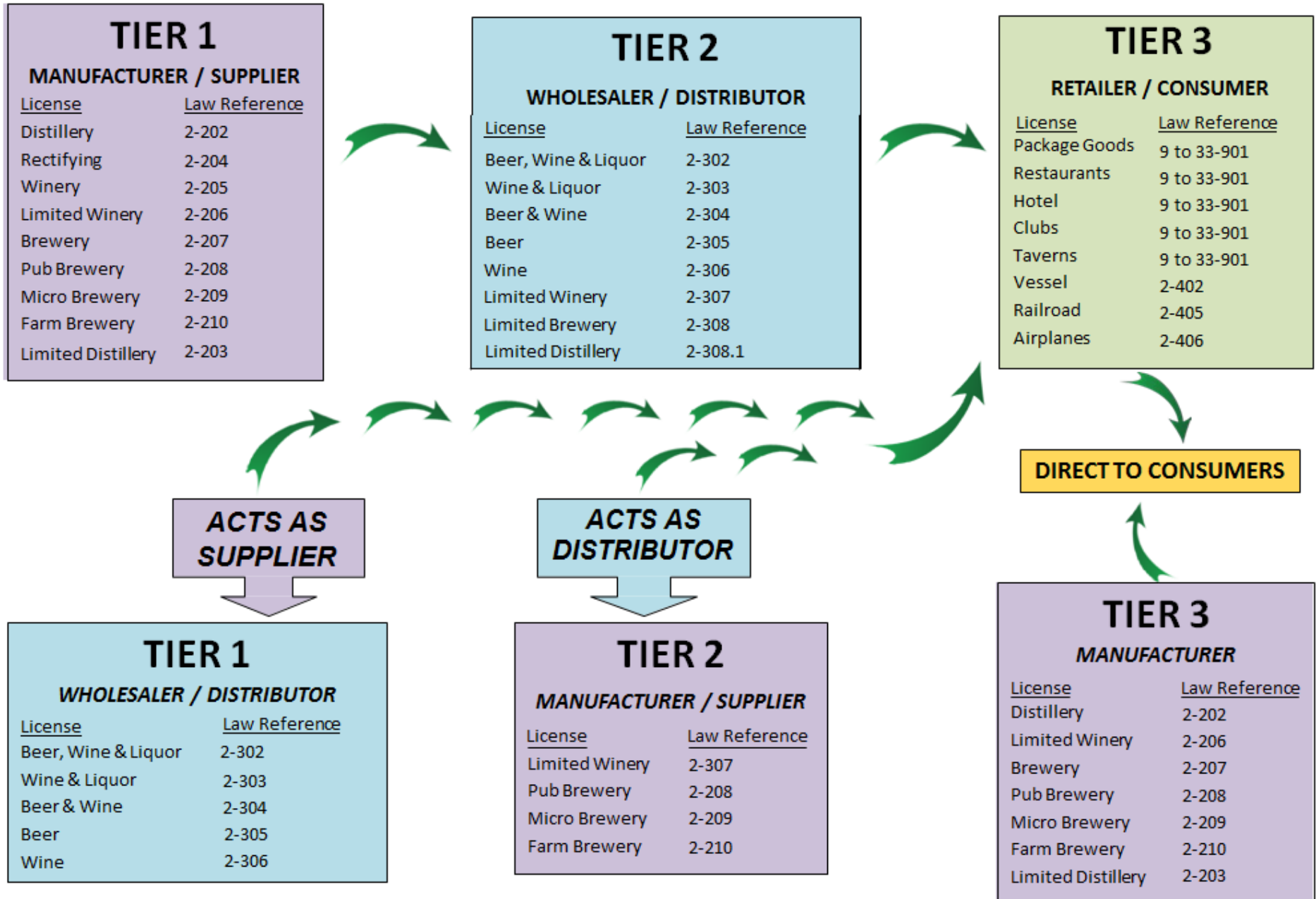
# Maryland's *Actual* Alcoholic Beverage Distribution System

TIER 1		
Manufacturers/Suppliers		
<u>License</u>	<u>Type</u>	<u>Law Reference</u>
Class 1 (M)	Distillery	2-202
Class 2 (M)	Rectifying	2-204
Class 3 (M)	Winery	2-205
Class 4 (M)	Limited Winery	2-206
Class 5 (M)	Brewery	2-207
Class 6 (M)	Pub Brewery	2-208
Class 7 (M)	Micro Brewery	2-209
Class 8 (M)	Farm Brewery	2-210
Class 9 (M)	Limited Distillery	2-203
Multi Tier		
<u>License</u>	<u>Type</u>	<u>Law Reference</u>
Class 1 (W)	Beer, Wine & Liquor	2-302
Class 2 (W)	Wine & Liquor	2-303
Class 3 (W)	Beer & Wine	2-304
Class 4 (W)	Beer	2-305
Class 5 (W)	Wine	2-306

TIER 2		
Wholesalers/Distributors		
<u>License</u>	<u>Type</u>	<u>Law Reference</u>
Class 1 (W)	Beer, Wine & Liquor	2-302
Class 2 (W)	Wine & Liquor	2-303
Class 3 (W)	Beer & Wine	2-304
Class 4 (W)	Beer	2-305
Class 5 (W)	Wine	2-306
Class 6 (W)	Limited Winery	2-307
Class 7 (W)	Limited Brewery	2-308
Class 8 (W)	Limited Distillery	2-308.1
Multi Tier		
<u>License</u>	<u>Type</u>	<u>Law Reference</u>
Class 4 (M)	Limited Winery	2-206
Class 6 (M)	Pub Brewery	2-208
Class 7 (M)	Micro Brewery	2-209
Class 8 (M)	Farm Brewery	2-210
Class E	Vessel	2-402
Class F	Railroad	2-405
Class G	Airplanes	2-406

TIER 3		
Retailers/Consumers		
<u>License</u>	<u>Type</u>	<u>Law Reference</u>
Class A	Package Goods	9 to 33-901
Class B	Restaurants	9 to 33-901
Class B	Hotel	9 to 33-901
Class C	Clubs	9 to 33-901
Class D	Taverns	9 to 33-901
Class E	Vessel	2-402
Class F	Railroad	2-405
Class G	Airplanes	2-406
Multi Tier		
<u>License</u>	<u>Type</u>	<u>Law Reference</u>
Class 1 (M)	Distillery	2-202
Class 4 (M)	Limited Winery	2-206
Class 5 (M)	Brewery	2-207
Class 6 (M)	Pub Brewery	2-208
Class 7 (M)	Micro Brewery	2-209
Class 8 (M)	Farm Brewery	2-210
Class 9 (M)	Limited Distillery	2-203

# Maryland's *Not-So-Simple* Alcoholic Beverage Distribution System



# Explanation of Alcohol Licenses/Permits/Fees

License Type	Purpose	Fee**
Statewide Caterer (General)	Allows a caterer to serve alcoholic beverages in all Maryland Jurisdictions, at catered events. Requires a 70/30% food to alcohol ratio at each event. Allows alcohol to be stored at caterers licensed location	\$2,000.00
Catering Limited	Same as Statewide Caterer, except only for up to 3 designated political subdivisions	Depends upon total population
<b>Manufacturer</b>		
Class 1 Distillery	Permits establishment of a plant to distill brandy, rum, whiskey, alcohol, and neutral spirits. Sell and deliver alcoholic beverages in bulk to a person authorized to receive the product.	\$2,000.00
Class 2 Rectifying	Authorizes the holder to operate in the state a plant for rectifying, blending and bottling alcoholic beverages, sell and deliver to license and permit holders authorized to acquire the alcoholic beverages, sell to someone outside the State of Maryland who is authorized to acquire the alcoholic beverage May apply for Maryland Wholesale license.	\$600.00
Class 3 Winery	Authorizes the licensee to ferment and bottle wine, sell and deliver to wholesaler or permit holder. Import bulk wine from non-resident dealers. Sell wine to a consumer of legal drinking age, who is taking a tour of the license holder, not more than one quart per person per year. May provide samples of wine manufactured at the licensed location at no charge to consumers taking a tour.	\$750.00
Class 4 Limited Winery	Authorizes the licensee to ferment and bottle wine, distill and pomace brandy. Produce not more than 27,500 gallons. Sell wine and pomace brandy to persons authorized to acquire the alcoholic beverages. May provide 2oz. samples for each brand of wine and/or pomace brandy, sell wine and pomace brandy, by the glass and bottle to consumers on the licensed premises. The holder of the license may attend wine festivals and events located off their licensed premise, with a Winery Off-Site Permit.	\$200.00
Class 5 Brewery	Authorized to brew and bottle malt beverages. Unlimited gallons, Import beer from non-resident dealers. Sell and deliver beer to Maryland wholesaler and to persons outside of the State of Maryland allowed to acquire beer. At no charge, may provide samples of 18 oz. per visit. Sell up to 288 oz. to a consumer, (no kegs) who participates in a tour or an event on the licensed premise. May obtain an on-site consumption permit and a Class D retail beer license or a equivalent license to sell beer to consumers, acquire beer from an affiliate, with limits, from a Maryland wholesaler. Limits may be exceeded with permission of Comptroller of Maryland. May contract brew with a class 2, class 5, class 7 or class 8 breweries. Hours for a class D or a consumption permit, 10 am through 10 pm Monday through Sunday for a class 5 issued or has applied for their brewery notice after April 1, 2017; unless regulated by local jurisdictions. Comply with alcohol awareness requirements.	\$1,500.00
Class 6 Pub-Brewery	Must have a class B retail license issued by county. Allow to manufacture beer that is only sold on the restaurant premises. Limited to 2,000 barrels in a calendar year. The license holder may sell beer to a consumer for consumption off the licensed premises in a sealed refillable container.	\$500.00

# Explanation of Alcohol Licenses/Permits/Fees

Class 7 Micro-Brewery	Must have a Class B retail license (some exceptions). May sell to a Maryland wholesaler or to a person outside the state who may legally acquire beer. May obtain a Class 2 rectifying license for a location within one (1) mile of the existing Class 7 micro-brewery for bottling purposes. Limited to 22,500 barrels in each calendar year, and sell up to 4000 barrels on the licensed premise per year. May hold a Brewery off-site permit which allows the holder to attend an event off the licensed premises.	\$500.00
Class 8 Farm Brewery	Allows the holder to manufacture beer using a Maryland agricultural ingredient from the licensed farm, including hops, grain, and fruit. May brew up to 15,000 barrels per calendar year. May provide samples of beer not exceeding 6 oz. per brand and sell beer produced by the licensee for on and off consumption on the licensed farm. The license holder may sponsor a multi-brewery activity on the licensed farm.	\$200.00
Class 9 Limited Distillery	Permits establishment of a plant to distill to rectify and bottle brandy, rum, whiskey, alcohol, and neutral spirits. May provide three samples of the manufacture product to person who participated in a tour, may hold a class D or B retail license (BWL). May not manufacture or sell more than 100,000 gallons of brandy, whiskey, alcohol and neutral spirits. May not sell at retail more than 15,000 gallons for on-sale or off-sale consumption.	\$500.00
<b>Special</b>		
Class E Vessels	Water Vessel Allows licensee to sell alcoholic beverages for consumption on the vessels used to transport passengers for hire.	\$150.00
Class F Railroad	Allows operator of steam, diesel, or electric railway to keep and sell alcoholic beverages in club, parlor, buffet, observation, sleeping, or dining car. Good throughout the State.	\$200.00
Class G Airplane	Allow operator of aircraft operated under regularly scheduled flights to keep and sell alcoholic beverages thereon.	\$200.00

# Explanation of Alcohol Licenses/Permits/Fees

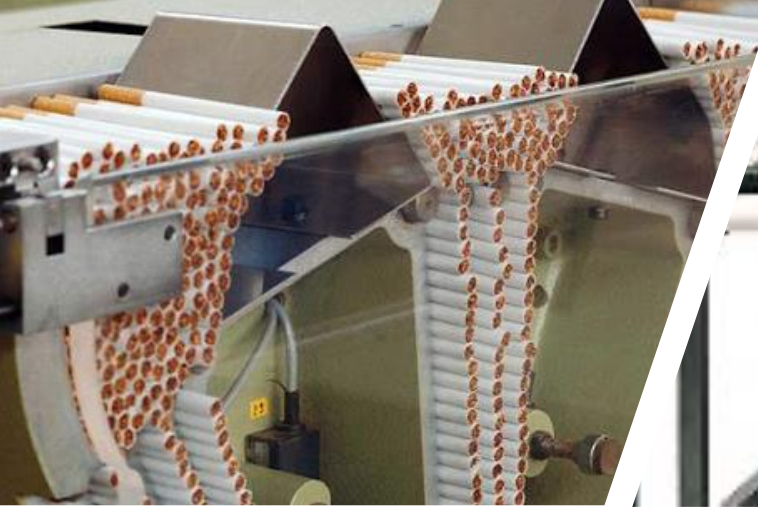
Wholesaler		
License Type	Purpose	Fee**
Class 1 Beer, Wine & Liquor	Beer Wine and Liquor Licensee may acquire alcoholic beverages indicated on the license from licensee and holder of non-resident dealer permit and resident dealer permit for sales and deliveries to licensee and permit holders. May have an additional warehouse location for a fee of \$2,000 for each location.	\$2,000.00
Class 2 Wine & Liquor	Same as Class 1 Wine and Liquor only but may use additional storage locations for a fee of 1,750 per location.	\$1,750.00
Class 3 Beer & Wine	Same as Class 1. Beer and Wine. Additional location is \$1,500 each.	\$1,500.00
Class 4 Beer	Same as Class 1. Beer only. Additional location is \$1,250 each.	\$1,250.00
Class 5 Wine	Same as Class 1 for wine only. Additional location is \$1,250 each.	\$1,250.00
Class 6 Limited Wine	May only be issued to a holder of an M4 Winery. May sell and deliver <u>its own</u> wine to retail licensee or permit holder.	\$50.00
Class 7 Limited Beer	May only be issued to holder of class 5 manufacturer license or a Class 8 or a Class 7 micro-brewery license. Producer from all locations not more than 22, 500 barrels of beer annually. May sell and deliver its own beer to retail license holder or permit holder in the State. Distribute not more than 3,000 barrels of <u>its own</u> beer annually.	\$50.00
Class 8 Limited Distillery	May be issued to a holder of a distillery license who produces not more than 100,000 gallons. May sell to licensed retailers and to a permit holder authorize to receive liquor and self-distribute not more than 27,000 gallons of its own liquor.	\$100.00

# Explanation of Alcohol Licenses/Permits/Fees

Permit Type	Purpose	Fee	Renewal
Non-Resident dealer	Authorizes out-of-state dealers to sell and deliver alcoholic beverages ONLY to persons in Maryland who are authorized under Maryland law to receive them.	\$200.00 Annually	October 31
Non-Resident Storage	May only be issued to the holder of a Non-resident Dealer Permit (both permits may be applied for at the same time). It authorizes the holder to store alcoholic beverages in a licensed Maryland Public Storage warehouse for subsequent delivery to qualified Maryland licensees and persons outside Maryland. Invoices issued by Non-Resident Dealers from out-of-state addresses must be made with any delivery to a Maryland licensee. A monthly report of activities will be required. Attach to your application a letter fully outlining your proposed activities, including source, storage location in Maryland and ultimate destination (both in and out of Maryland) of alcoholic beverages.	\$500.00 Annually	October 31
Import-Export	Authorizes importation of alcoholic beverages into Maryland for storage in a licensed public warehouse for subsequent reshipment outside the state of Maryland. Alcoholic beverages imported under this permit may not be sold, consigned or delivered to any person within the state of Maryland. A monthly report of activities will be required. Attach it to your application a letter fully outlining your proposed activities, including sources, storage location in Maryland and out-of-state destinations of alcoholic beverages.	\$75.00 Annually	October 31
Public Transportation	Authorizes only transportation of alcoholic beverages for the accounts of other persons, into, within, out of or through the state of Maryland. This permit does not allow selling, storing, or warehousing in Maryland.	\$75.00 Annually	October 31
Individual Transportation	Authorizes the transportation from or en route through the state of Maryland of alcoholic beverages which are not for sale or delivery within this state. Title to such alcoholic beverages shall be vested in the person to whom the permit is issued.	\$10.00 Annually	October 31
Individual Storage	Authorizes only the storage of alcoholic beverages which are the property of the permittee at premises not otherwise licensed. The beverages so stored may only be delivered to the premises of the license holder.	\$50.00 Annually	October 31
Public Storage	Authorizes the operation of a warehouse for the storing of alcoholic beverages in Maryland for the accounts of other persons. Monthly reports will be required.	\$75.00 annually	October 31
Public Storage and Transportation	Authorizes the operation of a warehouse for the storing of alcoholic beverages in Maryland for the accounts of other persons, and transportation of alcoholic beverages into, within, through and out of the state of Maryland. Monthly reports will be required.	\$200.00 Annually	October 31
Change of Domicile	Authorizes holders to transport into Maryland their private stock of alcoholic beverages for personal consumption only upon the payment of the Maryland tax on alcoholic beverages when the permittee is changing domicile into the state of Maryland. Includes Military returning from overseas.	\$5.00	Valid for specific transaction
Non-Beverage "C"	Authorizes the holder for commercial purposes to purchase alcohol and alcoholic beverages for use in compounding or manufacturing flavoring extracts; medicinal, antiseptic or toilet preparations, or for other similar purposes; for scientific or laboratory purposes; for flavoring food products; or for sale by druggists or apothecaries upon the written prescription of a qualified physician.	\$50.00	Valid until cancelled or revoked
Non-Beverage "E"	This permit is the same as the Non-Beverage "C" permit, except that it is for non-commercial purposes and will be issued gratis to any publicly supported hospital, governmental or municipal institution, educational institution or charitable organization.	\$0.00	Valid until cancelled or revoked

# Explanation of Alcohol Licenses/Permits/Fees

Vehicle Identification Card	Each tractor unit or straight truck hauling alcoholic beverages under the authority of a Public Transportation Permit, Individual Transportation Permit, or a Public Storage and Transportation Permit must carry a Vehicle Identification Card at all times when alcoholic beverages are being transported. The permittee shall type the vehicle make, serial number and state of registration and license number on the card assigned to the vehicle. The cards are non-transferable once assigned by the permittee and may be used only to identify vehicles owned or leased by the permittee under such terms that the permittee has absolute and exclusive use and control of the vehicle and operator.	\$10.00 annually for each tractor unit or straight truck	October 31
Family Beer and Wine Facility	Authorized to establish a facility for the production of family beer or wine by non-licensed Maryland state consumers who are of legal drinking age. The permit holder may provide equipment, raw materials and instructions to the consumer. Except for beer or wine produced for testing the equipment and recipes or sample to consumers who have entered into contract, the permit holder may not engage in actual production or manufacture of beer or wine. All family beer and wine produced at the Family Beer and Wine Facility shall be removed from the premises by the consumer for home consumption and personal use.	\$400.00 Annually	October 31
Resident Dealer	Authorizes in-state dealers to sell alcoholic beverages ONLY to persons in Maryland who are authorized under Maryland law to receive them.	\$200.00 Annually	October 31
Non-Resident Brewery	Authorizes out of state breweries that produce not more than 22,500 barrels of their own beer annually to sell and deliver not more than 3,000 barrels of its own beer annually to retail license holders in Maryland who are authorized under Maryland Law to receive them.	\$50.00 Annually	October 31
Non-Resident Winery	Authorizes out-of-state wineries who produce less than 27,500 gallons of their own wine per year to sell and deliver wine to retailers in Maryland who are authorized under Maryland Law to receive them.	\$50.00 Annually	October 31
Alcohol Awareness Instructor	Authorizes an employee or agent of an alcohol awareness program permit holder to conduct alcohol awareness training, with certification granted by the program.	\$5.00	N/A
Alcohol Awareness Program	Authorizes the holder to run a program certified by the Office of the Comptroller and issue a certificate of completion to those completing the course	\$15.00	N/A



# Maryland's Tobacco Laws and Regulations



# Cigarettes

## BR Title 16

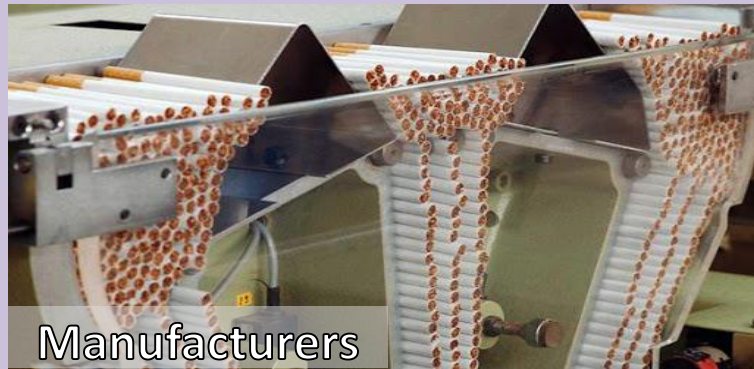
- **"Cigarette"** means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.
- Maryland Commercial Law Section 11-5A-02
  - **"Loose Cigarette"** - Notwithstanding any other provision of law, a retailer, wholesaler or vending machine operator may not purchase from a tobacco product manufacturer or sell, resell, distribute, dispense, or give away to any person an unpackaged cigarette.



# Maryland's Cigarette Distribution System

- **Manufacturers:** sells unstamped cigarettes to Wholesalers
- **Wholesalers:** purchases cigarette stamps, stamps the cigarettes and sells them to Subwholesalers and Retailers
- **Subwholesalers:** sells to Retailers, and may also sell to other Subwholesalers
- **Retailers:** purchases stamped cigarettes from Wholesalers and Subwholesalers
- **Consumers:** purchases stamped cigarettes from Retailers

# Maryland's *Simplified* Cigarette Distribution System



# Other Tobacco Products

## BR Title 16.5

- **"Other tobacco products"** means, a product that is intended for human consumption or likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested in any other manner, and that is made of or derived from, or that contains:
  - Tobacco; or
  - Nicotine
- A component or part used in a consumable product described above
- "Other Tobacco Products" includes
  - Cigars, premium cigars, pipe tobacco, chewing tobacco, snuff, and snus, filters, rolling papers and hookahs.
- Does not include
  - Cigarettes, ESD, drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.
- **Pipe tobacco** - means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to smoke in a pipe.
- **Premium cigars** - means cigars that: have hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain size, texture, or flavor; or
  - are designated as premium cigars by the Executive Director by regulation.



# Electronic Smoking Devices

## BR Title 16.7

- **Electronic smoking device (ESD)** - means a device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device.
- ESD includes: an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, and vaping liquid; and
- any component, part, or accessory of such a device regardless of whether or not it is sold separately, including any substance intended to be aerosolized or vaporized during use of the device.
- "Vaping liquid" means a liquid that: consists of propylene glycol, vegetable glycerin, or other similar substance;
  - may or may not contain natural or artificial flavors;
  - **may or may not contain nicotine**; and
  - converts to vapor intended for inhalation when heated in an electronic device.
- ESD does not include a drug, device, or combination product authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.



<b>Manufacturer</b>	<b>Wholesaler</b>	<b>Retailer</b>
Manufacture ESD	Sell to Retailers	Sell to Consumers
Sell to Wholesalers	Buy from Manufacturers	Distribute samples to Consumers
Distribute to Retailers	Buy and sell from Wholesalers	Buy from Wholesalers
Hold a Retailer license		Hold a Manufacturers license
Sell to Consumers		

## ESD License Breakdown

# Remote Tobacco Seller's License

## BR 16.9-201 – 16.9-214

- **Remote Tobacco Seller's License** - A remote tobacco seller license authorizes the licensee to sell premium cigars and pipe tobacco through a common carrier or private delivery service to a consumer in the State by receiving and filling orders that the consumer transmits by electronic or other means. BR16.9-201(b)
- **"Pipe tobacco"** means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to smoke in a pipe.
- **"Premium cigars"** means cigars that:
  - have hand-rolled wrappers made from whole tobacco leaves where the filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain size, texture, or flavor; or
  - are designated as premium cigars by the Executive Director by regulation.
- **Beginning on July 1, 2022 the ATC began issuing Remote Tobacco Seller's Licenses.**
  - As of this presentation, the ATC has issued seven (7) remote tobacco seller's license in FY23.



## Holding Rooms

The ATC confiscates evidence, holds it until the case is adjudicated, and then destroys it. A large portion of the contraband is untaxed or illegally smuggled cigarettes and OTP.



## **2023 Maryland General Assembly: Alcohol and Tobacco Commission Legislative Issues**



# Statewide Alcohol Related Issues

- **Corrective/Clarifications Bill – Alcohol and Tobacco Commission**
  - This bill would complete the transition of duties and responsibilities of regulation and enforcement related to alcohol and tobacco from the Office of the Comptroller to the ATC as contemplated by HB1052 passed in 2019.
    - Similar bills were passed in 2020 (HB900/SB911), 2021 (HB1336), and 2022 (HB1253).
- **Continuation of Direct Shipping for Manufacturers and Off Premises Sales**
  - Passage of HB550/SB476 in 2022 allowed the privilege to provide direct shipping, off premise sales, cap on total number of ounces/liters sold until June 30, 2023. Before extension, privileges were to cease on December 31, 2022.
- **Grocery/Chain Stores**
  - Proposed legislation before the House and Senate in 2021 and 2022 would have authorized Grocery/Chain stores to sell beer and wine
    - Separate bills introduced provided for licensure within the State, Baltimore City, and/or Prince George's County.
- **Third Party Delivery/Uber Delivery**
  - Currently delivery of alcoholic beverages within the State from a licensed establishment can occur only if an employee of the establishment delivers the product to customer and confirms the identity and age of the purchases
    - Discussion about introduction of a bill that would allow third parties to deliver
- **Ready to Drink (RTD) Cocktails**
  - HB867/SB793, which failed to pass in 2022, would have lowered the tax rate on spirit based ready to drink cocktails from \$1.50 per gallon to 40 cents per gallon
    - As per JCR request, ATC is currently conducting a study how other State's tax RTD drinks and the impact such rates have on the State's general finances.

# Tobacco Related Issues

- **Local Regulation of Tobacco Distribution and Enforcement**
  - **HB442/SB249** – This bill allows Baltimore City to draft and enforce local laws as it regards to regulating the sale and distribution of cigarettes and ESDs. (Bills did not pass)
  - **HB447/SB99** - This bill allows local jurisdictions in the State of Maryland to draft and enforce local laws as it regards to regulating the sale and distribution of cigarettes and ESDs. (Bills did not pass)
- **Zoning Enforcement/Prince George's County**
  - **HB1341** - This bill empowers Prince Georges county to enact and enforce laws concerning the sale of OTP. It specifically, calls for laws that limit the issue of licenses, establishes requirements, and creates zones where OTP licenses may not be issued. (Bill did not pass)
    - Creates an automatic denial clause for the Clerk of Prince Georges County to issue an OTP retail license to a retail applicant, if the location of the store is within 1500 feet of a primary/secondary school OR is within a certain distance from another retail establishment depending on Census tract or is delinquent on State Taxes or any other provision established by PG's County . The same provisions are drafted for ESDs.



# Considerations for Cannabis

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- What is the role for the ATC?
- HB837 – Publication of Joint study by ATC/MMCC
- Distribution system
- Promulgating regulations
- Inspection/Enforcement authority (Citation)
- Advertising
- Things of value

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The background of the slide features the official seal of the Maryland ATC Executive Director Commission. The seal is circular with a gold border. Inside the border, the words "MARYLAND" are at the top and "COMMISSION" is at the bottom, both in gold capital letters. A central gold ring contains the letters "ATC" in blue. Below this ring is a detailed illustration of the Maryland State House, a large classical building with a central dome and columns, surrounded by trees. The words "EXECUTIVE DIRECTOR" are written in blue capital letters along the bottom of the central ring. The seal is flanked by two gold spheres.

# Questions?